

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ABED MOSA BAIDAS,

Petitioner,

vs.

Case No. 01-CV-73588

CAROL JENIFER, and
the IMMIGRATION AND
NATURALIZATION SERVICE,

HON. AVERN COHN

Respondent.

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**ORDER ADOPTING REPORT AND RECOMMENDATION AND TRANSFERRING
CASE TO THE COURT OF APPEALS FOR THE SIXTH CIRCUIT**

This is a habeas corpus case under 28 U.S.C. § 2241. Petitioner, Abed Mosa Baidas (Petitioner), a Jordanian citizen, challenged the validity of a removal order issued by Respondent directing his removal from the United States because he has been convicted of two or more crime involving moral turpitude and has been convicted as an aggravated felon.

The matter was referred to a magistrate judge. The magistrate judge issued a Report and Recommendation (MJRR) recommending that the petition be denied. The Court agreed and adopted the MJRR and dismissed the case. See Order Adopting Report and Recommendation and Dismissing Petition for Writ of Habeas Corpus, filed October 29, 2002. Petitioner appealed, raising four issues. The Court of Appeals for the Sixth Circuit issued a limited remand for further factual development and legal determination on issues 1 and 4, as follows:

1. Whether Petitioner's application for naturalization was actually approved
4. Whether Petitioner was eligible to seek a discretionary waiver of deportation under § 212(c), 8 U.S.C. § 1182(c)

Baidas v. Jenifer, 123 Fed. Appx. 663, 2005 WL 233780 (6th Cir. 2005).

On remand, the case was again referred to a magistrate judge before whom Respondent filed a motion for partial summary judgment on Issue # 1 and to transfer the remainder of the case (Issue # 4) to the Sixth Circuit based on REAL ID Act of 2005, Pub. L. No. 109-13, 199 Stat. 231, enacted following remand. Petitioner, though counsel, filed a response to the motion, agreeing that summary judgment in favor of Respondent was warranted on Issue # 1. Petitioner also agreed that Issue # 4 must be presented to the Sixth Circuit under the REAL ID Act. The magistrate judge issued a MJRR finding that under the REAL ID Act, the Court lacks jurisdiction to consider Issue # 1, even though the parties agree as to its disposition, and Issue #4. As such, the magistrate judge recommends that the entire case be transferred to the Sixth Circuit. Neither party has objected to the MJRR.

Accordingly, the findings and conclusions of the MJRR, a copy of which is attached, are adopted as the findings and conclusions of the Court. This case is TRANSFERRED to the Sixth Circuit pursuant to Section 106(c) of the REAL ID Act.

SO ORDERED.

Dated: May 24, 2007

s/Avern Cohn
AVERN COHN
UNITED STATES DISTRICT JUDGE

I hereby certify that a copy of the foregoing document was mailed to the parties of record on this date, May 24, 2007, by electronic and/or ordinary mail.

s/Julie Owens
Case Manager, (313) 234-5160